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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,071	10/25/2001	Gregory Barclay	3646/30206	6720

7590 11/25/2003

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EXAMINER

PATEL, VISHAL A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/004,071

Applicant(s)

BARCLAY ET AL.

Examiner

Vishal Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 9.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5, line 2, "annular flange is of uniform thickness in the radial direction about the aperture", this claim language is unclear since the flange has an outer annular margin of varying radial extend relative to the aperture and also having arcuately spaced areas of varying thickness (see claim 1), how can the flange be of uniform thickness in the radial direction about the aperture?

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lieb et al (US. 6,113,109).

Lieb discloses a gasket comprising:

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a gasket plate (30);

an aperture through the plate (aperture 20A);

an annular flange (flange 40A, which extends perpendicularly to the plate) extending in a constant radial thickness (the thickness is constant in figure 4B, since the flange is varying in radial extent, furthermore Lieb discloses to have flanges of varying height, varying radial extend and combination of both) perpendicularly to the plate to an annular wavy edge varying in height between high and lows whereby (the heights is varying so as to provide a high and lows to form a wavy, column 3, lines 50-53);

the flange (flange 40A lies on an annular portion of the plate 30) **may be doubled** (intended use, anything may be folded or doubled) over into surface to surface contact with an annular portion (portion of plate 30 below 40A) of the plate surrounding the aperture, a stopper seal around the aperture (40A provides a stopper seal around aperture 20A), having arcuately spaced areas of varying thickness (column 3, lines 55-61, combination of radial width (meaning varying radial extent as shown by 40B) and heights (meaning varying thickness) may be used) and an outer annular margin of varying radial extent relative to the aperture (column 3, lines 55-61);

the plate has bolt-receiving holes spaced radially outwardly from the flange in arcuately spaced relation to one another, and the lows of the flange being adjacent to the bolt-receiving hole and of lesser thickness than the highs of the flange being more distant from the bolt-receiving holes (column 3, lines 43-55, discusses relationship of height and width in relationship with the bolt holes);

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the annular flange is of uniform thickness in the radial direction about the aperture (see figure 4, where the annular flange is of uniform thickness in the radial direction).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kashmerick et al (US. 6,209,883) in view of Lieb et al (US. 6,113,109).

Kashmerick discloses a gasket comprising:

a gasket plate (34);

an aperture (58) through said plate (plate 34);

an annular flange (36', figures 5-6B, column 5, line 50 to column 6, line 5) surrounding the aperture and formed as one piece of the same material as the gasket plate for folding into surface-to-surface contact with an annular portion of said plate surrounding the aperture (figure 2, where the gasket plate ;

said annular flange providing a stopper seal (stopper by the flange and the annular portion of the plate) around the aperture;

said annular flange having arcuately spaced areas of varying thickness (see figures 2 and 5-6B);

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wherein said plate has bolt-receiving holes (24) spaced radially outwardly from said flange in arcuately spaced relation to one another, and the areas of said flange adjacent to said bolt-receiving holes are of lesser thickness than the areas of said flange more distant from said bolt-receiving holes (column 5, lines 65-67);

the flange being in surface-to-surface contact with an annular portion of said plate surrounding the aperture and integrally connected to said annular portion by a doubled over connecting portion which defines an annular marginal edge of the aperture (aperture 58);

the annular portion of the gasket is of uniform thickness (figure 2, annular portion of plate 34 in contact with 36 that has a uniform thickness);

the flange has varying thickness (figures 6A and 6B);

the annular flange has radial extent.

Kashmerick discloses the invention substantially as claimed above but fails to disclose that the annular flange has a wavy outer edge varying between crests and valleys, the stopper having arcuately spaced areas of varying radial extent, where the crest define relatively thicker areas of the annular flange having a relatively greater radial extent than that of relatively thinner areas of the annular flange defined by the valleys. Lieb discloses a gasket (10) having relatively varying thickness of a flange (40A), where the flange is thicker (figures 4 and 5, column 3, lines 50-55) away from bolt holes (bolt holes 22A), the radial extent of the flange is varying (40B is varying in radial extent, column 3, lines 54-58), combination of radial extent and varying thickness are less at bolt holes (22A, fig. 6, column 3, lines 58-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the radial extent of the annular flange of Kashmerick to have varying crests and valleys that form varying

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radial extent as taught by Lieb, to provide proper clamping stress on the gasket by the bolts (column 3, lines 43-56 of Lieb). Furthermore Lieb teaches the annular flange to have both varying radial extent and varying thickness.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 3-5 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's arguments filed 10/14/03 have been fully considered but they are not persuasive. Applicants' argument that Lieb discloses a separate bead 40 is correct but not persuasive since Lieb is used to teach that a stopper has varying radial extend (to have the radial extent the flange has to have crests and valleys) and varying thickness (the flange has to have varying thickness).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is (703) 308-8495. The examiner can normally be reached on Monday through Friday from 7:30 PM to 4:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight, can be reached on (703) 309-3179.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168. Technology Center 3600 Customer Service is available at 703-308-1113. General Customer Service numbers are at 800-786-9199 or 703-308-9000. Fax Customer Service is available at 703-872-9325.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

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**or faxed to:** 703-872-9326, for formal communications for entry before Final action: or,  
703-872-9327, for formal communications for entry after Final action.

**For informal or draft communications**, please label “**PROPOSED**” or “**DRAFT**” and fax to:  
703-746-3814.

Hand-delivered responses should be brought to Crystal Park Five, 2451 Crystal Drive,  
Arlington, Virginia, Seventh Floor (Receptionist suite adjacent to the elevator lobby).

VP

November 20, 2003

A handwritten signature in black ink, reading "Vishal Patel". The signature is written in a cursive, flowing style.

Vishal Patel  
Patent Examiner  
Tech. Center 3600